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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,001	01/31/2001	William E. Duncan	NTWK012/00US	2318
21186	7590	12/21/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH 1600 TCF TOWER 121 SOUTH EIGHT STREET MINNEAPOLIS, MN 55402			PARTHASARATHY, PRAMILA	
			ART UNIT	PAPER NUMBER
			2136	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/774,001

Applicant(s)

DUNCAN ET AL.

Examiner

Pramila Parthasarathy

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the Appeal Brief filed on 10/28/2005, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1 – 24, 26 and 27 are pending in the application.

3. Applicant's arguments, see pages 10 – 17, filed 10/28/2005, with respect to the rejection(s) of claim(s) 1 – 24, 26 and 27 under 35 U.S.C 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bommarreddy et al. (U.S. Patent 6,779,039).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 – 16 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The amended independent Claims 1 and 10 recite, “an analysis of activity across the load host computers” and the dependent Claim 19 recites, “designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load host computer activity analysis”.

With respect to “an analysis of activity across the load host computers” or “designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load host computer activity analysis”, although the specification discloses, “In general, the load host determination process can be based on the analysis of a variety of factors.”, See instant application page 12 lines 13 - 14, the specification does not disclose “an analysis of activity across the load host computers” or “designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load host computer activity

analysis". Applicant amendment does not clarify the steps of "an analysis of activity across the load host computers" or "designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load host computer activity analysis".

The dependent claims 2 – 9 and 11 – 16 are rejected at least by virtue of their dependency on the dependent claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Bommareddy et al. (U.S. Patent Number 6,779,039).

6. Regarding Claim 1, Bommareddy teaches

a dispatch host computer, said dispatch host computer being connectable to an external network (Fig. 8 and Column 14 lines 54 – 67); and

at least one load host computer coupled to said dispatch host computer, said at least one load host computer configured to provide proxy firewall services, said at least one load host computer being connectable to one or more application servers, wherein said connection from the external network is distributed from said dispatch host computer to a particular load host computer based on an analysis of the type of protocol of the connection and an analysis of activity across the load host computers (Fig. 8 and Column 15 lines 2 – 37).

**7. Regarding Claim 10, Bommareddy teaches**

identifying a set of load host computers, each load host computer in said set of load host computers being configured to provide proxy firewall services (Fig. 8 and Column 15 lines 2 – 37);

monitoring one or more incoming ports at a dispatch host computer for a connection (Fig. 8 and Column 15 lines 44 – 52);

upon identification of said connection, selecting from said set of load host computers a load host computer to which said connection should be forwarded based on an analysis of the type of protocol of said connection and an analysis of activity across the load host computers (Fig. 8; Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**8.** Regarding Claim 17, Bommareddy teaches

identifying a resource intensive protocol (Fig. 8; Column 15 lines 2 – 37 and Column 19 lines 41 – 65);

designating a load host computer for providing primary support for said resource intensive protocol (Fig. 8; Column 15 lines 2 – 37; Column 16 lines 41 – 53 and Column 19 lines 41 – 65); and

routing a connection for said resource intensive protocol from a dispatch host computer to said designated load host (Fig. 8; Column 15 lines 2 – 37; Column 16 lines 41 – 53 and Column 19 lines 41 – 65).

**9.** Regarding Claim 23, Bommareddy teaches

receiving a connection at a dispatch host computer (Fig. 8 and Column 14 lines 35 – 67);

selecting a first load host computer to which the connection should be forwarded; forwarding said connection to said first load host computer (Fig. 8; Column 15 lines 2 – 37; Column 16 lines 41 – 53 and Column 19 lines 41 – 65);

connecting a second load host computer to said dispatch host computer; and updating a configuration tile on said dispatch host computer to reflect the connection of said second load host computer, wherein upon said updating, said second load host computer is available to process forwarded connections from said dispatch host computer (Fig. 8; Column 15 lines 2 – 37; Column 16 lines 41 – 53 and Column 19 lines 41 – 65).

**10.** Claim 2 is rejected as applied above in rejecting claim 1. Furthermore, Bommareddy teaches dispatch host computer includes a monitoring element that listens for connections on multiple ports (Column 15 lines 2 – 37).

**11.** Claim 4 is rejected as applied above in rejecting claim 1. Furthermore, Bommareddy teaches at least one load host computer is protocol specific load host computer (Column 19 lines 14 – 22).

**12.** Claim 5 is rejected as applied above in rejecting claim 1. Furthermore, Bommareddy teaches at least one load host computer can handle multiple protocols (Column 15 lines 2 – 37).

**13.** Claim 6 is rejected as applied above in rejecting claim 1. Furthermore, Bommareddy teaches at least one load host computer and said dispatch host computer communicate information regarding the connecting of said at least one load host computer to the computer system (Column 15 lines 2 – 37).

**14.** Claim 9 is rejected as applied above in rejecting claim 1. Furthermore, Bommareddy teaches dispatch host computer provides proxy firewall services (Fig. 5 and 8; Column 8 lines 35 – 65 and Column 15 lines 2 – 37).



**15.** Claim 11 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches communicating information between said dispatch host computer and said load host computers relating to the availability of said load host computers (Column 15 lines 2 – 37 and Column 18 lines 27 – 50).

**16.** Claim 12 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches monitoring for a connection with a dispatch proxy that monitors one or more incoming ports on said dispatch host computer simultaneously (Summary and Column 16 line 49 – Column 17 line 15).

**17.** Claim 13 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches selecting a load host computer based on a round robin load distribution among said load host computers (Column 17 lines 16 – 39).

**18.** Claim 14 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches selecting a load host computer based on the availability of the load host computers (Column 15 lines 2 – 37 and Column 18 lines 27 – 50).

**19.** Claim 15 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches selecting a load host computer based on the percentage of the total number of simultaneous proxied connections the load host computer can support (Summary and Column 16 line 49 – Column 17 line 15).

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**20.** Claim 16 is rejected as applied above in rejecting claim 10. Furthermore, Bommareddy teaches selecting a load host computer that can support a resource intensive protocol (Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**21.** Claim 18 is rejected as applied above in rejecting claim 17. Furthermore, Bommareddy teaches processing on the dispatch host computer a connection for at least one protocol other than resource intensive protocol (Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**22.** Claim 19 is rejected as applied above in rejecting claim 17. Furthermore, Bommareddy teaches designated load host provides exclusive support for said resource intensive protocol (Column 15 lines 2 – 37 and Column 19 lines 41 – 65), and wherein designating includes analyzing activity across a plurality of host computers and selecting a load host computer based on the load hose computer activity analysis(Column 6 line 30 – Column 7 line 15 and Column 19 lines 41 – 65).

**23.** Claim 20 is rejected as applied above in rejecting claim 17. Furthermore, Bommareddy teaches designated load host is dedicated to said resource intensive protocol (Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**24.** Claim 21 is rejected as applied above in rejecting claim 17. Furthermore, Bommareddy teaches designating another load host for multi-purpose support (Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**25.** Claim 22 is rejected as applied above in rejecting claim 17. Furthermore, Bommareddy teaches dispatch host computer has multi-purpose support (Column 15 lines 2 – 37 and Column 19 lines 41 – 65).

**26.** Claim 24 is rejected as applied above in rejecting claim 23. Furthermore, Bommareddy teaches communicating information between said dispatch host computer and said second load host computer regarding the availability of said second load host computer (Column 15 lines 2 – 37 and Column 18 lines 27 – 50).

**27.** Claim 26 is rejected as applied above in rejecting claim 23. Furthermore, Bommareddy teaches wherein said connecting and said updating occur during the provision of proxy firewall services (Fig. 5 and 8; Column 8 lines 35 – 65 and Column 15 lines 2 – 37).

**28.** Claim 27 is rejected as applied above in rejecting claim 23. Furthermore, Bommareddy teaches wherein said connecting includes signaling the dispatch host computer upon connection (Fig. 5 and 8; Column 8 lines 35 – 65 and Column 15 lines 2 – 37).

**29.** Claim 3 is rejected as applied above in rejecting claim 2. Furthermore, Bommareddy teaches wherein said monitoring element is a dispatch proxy (Column 8 lines 35 – 65 and Column 17 lines 27 – 60).

**30.** Claim 7 is rejected as applied above in rejecting claim 6. Furthermore, Bommareddy teaches wherein said dispatch host computer includes a configuration file with information relating to any load host computers in the computer system (Column 19 lines 41 – Column 20 line 24).

**31.** Claim 8 is rejected as applied above in rejecting claim 7. Furthermore, Bommareddy teaches wherein upon the connection of another load host computer to the computer system, said configuration file is updated to reflect the availability of said another load host computer in the computer system (Fig. 5 and 8; Column 8 lines 35 – 65 and Column 15 lines 2 – 37).

### ***Conclusion***

**32.** Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are

applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

**33.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO Form 892.

Applicant is urged to consider the references. However, the references should be evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. If applicants are aware of any better prior art than those are cited, they are required to bring the prior art to the attention of the examiner.

**34.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pramila Parthasarathy whose telephone number is 571-272-3866. The examiner can normally be reached on 8:00a.m. To 5:00p.m.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-232-3795. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pramila Parthasarathy

December 15, 2005.

Cel  
Primary Examiner  
AU 2136  
12/19/05